

**LEGALITY AND LEGITIMACY IN CONTENTIOUS POLITICS -
ANALYZING THE USE OF DEMOCRATIC STATE MACHINERY TO
CURB DISSENT IN MODERN DEMOCRACIES**

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ABSTRACT

The past few decades have witnessed an increase in political participation across the world, as people have strived to achieve principles of liberty and equality through democracy. These movements are often met with firm opposition from authoritative regimes and democratically elected governments that turn authoritarian through their actions and policies. This leads to the disillusionment of communities from mainstream political structures and narratives and prompts them to use disruptive techniques through contentious politics in an attempt to achieve changes in public policy or institutions. This paper has examined the development of contentious politics and concluded that it is a result of state failure and that radical means of protest arise because the means to achieve structural change are unavailable to marginalized groups. Government responses to contentious politics have also been examined, with a focus on the unfair use of state machinery by authoritative actors to quash dissent, in actions that are tantamount to the abuse of human rights, and is often accompanied by the failure of systems of checks and balances, if they exist. Antagonization of contentious movements by the government pushes them to adopt more extreme and radical means, including violence. However, it has been found that productive engagement between contentious movements and the government brings the movement to the mainstream and allows it to occupy spaces in political discourse and influence social change, which is often directed towards achieving aspirations of equality and social justice.

Keywords: Contentious politics, Government, Social movements, Democracy

INTRODUCTION

Contentious politics refers to the use of disruptive techniques in politics, that usually aims to bring social change through state action or to change government policy. They are considered unique because they disturb the normal functioning of society, and examples of such techniques

include demonstrations, general strike action, civil disobedience, and even revolution or insurrection. Social movements have for long engaged in contentious politics. General strikes became a common occurrence in post-industrial revolution Europe, usually in opposition to pay cuts and to demand better working conditions. Contentious politics distinguishes itself from other forms of politics or movements aimed at social change because it is characterized by everyday acts of resistance within institutional settings, such as elections, industries, or sports (Tilly, 2008). Contentious politics has occupied a central position in political discourse and processes across the world since the Cold War and has become an integral part of engaging in politics. It strives to shift the focus from the subjects and objects of contention to the mechanisms that connect them to each other and to broader public institutions and actors that influence them. Even though contentious politics has been characterized as disruptive and radical which has prompted hostile responses from governments, it has been successful in enhancing the influence that movements and political parties have on each other (and their links) across national boundaries in addition to strengthening the identities of oppressed identities in communities through collective action (Porta & Diani, 2005).

Society has historically organized itself into hierarchies. These hierarchies often stem from social identities such as race, caste, gender, and economic class and their solidification give rise to the marginalization or oppression of individuals who ascribe to that identity. Social movements emerge as a challenge to the status quo and seek to reform it or break it down entirely. The 'status quo' is maintained through institutions and often finds itself being represented in a country's legal code. Social movements seek to reform these institutions and codes in order to achieve equality of opportunity for all individuals irrespective of their backgrounds and identities. Reformation often happens through non-contentious means including elections, legal judgments, and constitutional review through co-operation and engagement between political movements and the institutions they seek to influence or reform. Contentious politics thus originates when social change and movements are met with resistance from institutions, which forces them to adopt more radical means to propagate their message and influence change. The usage of disruptive means such as strikes and lockdowns also stems from the disproportionate gap in social, economic, and political capital between those who have held institutional power historically and those who seek to reform them.

Even though contentious social movements have existed across the world, their impact on political participation and democratization has been most significant in authoritarian regimes. It is also argued that social movements become contentious only when they are countered by authoritarianism. Alienation experienced by people is the product of their inability to influence and reform public institutions, which is more common in nations that tend to be authoritarian in comparison to consensual democracies. Repression by authoritarian governments also forces

groups to go ‘underground’ and adopt more radical means of influencing change (Johnston, 2005). Historically, revolutions have occurred in those states where those holding positions of structural power have turned a blind eye to the demands of the masses. The Russian and French Revolutions were fueled by the ignorance of the monarchy to the needs of the economically deprived sections of society, even when they were presented peacefully or institutionally. Since then, labor movements in Europe have consistently destabilized autocracies, leading to a more democratic society. Authoritarian regimes often respond to these movements by using public institutions. As a result of this Even though contentious political movements might suffer through backlash and lose popular support in the short run and antagonize the ruling elite, research suggests that democratization and social reform proceed alongside weighty and often violent popular challenges (Bermeo, 1997). Civil Rights, including free speech, are often curtailed as a response to contentious movements, by authorities not just in authoritarian regimes or one-party democracies, but also in diverse and liberal democracies like India and the United States. Dealing with movements that have elements of violence and extremism whilst they continue to represent oppressed masses and principles of freedom and equality has been a challenge for governments across the world.

BACKGROUND

The study of Contentious Politics has historically focused on social movements that have a loosely defined organizational structure, comprise of and represent people who perceive themselves to be alienated from formal and public institutions and seek major social and political reforms from status quo, through collective action. Initial research characterized contentious politics as a threat to political order but nonviolent movements have emerged as being integral to political participation and civil society (Huntington, 1968). Studies conducted by McAdam, et. al. in 2001 suggest that democratization and contentious collective action are inseparable, and the former does not occur without the latter (McAdam, et. al., 2001).

Psychological explanations behind the rise of contentious politics focus on grievances of the people against the government which revolve around the feeling of relative deprivation- the feeling of an individual or group that they are not being given a fair share of what is due to them in comparison to others. This feeling is often group and identity based, and revolves around race, ethnicity, religion, and caste (Klandermans, 2015). The construction of stigmatized identities along racial and ethnic lines fuel successful contentious politics, like in the case of the LGBTQ community and Racial Minorities in Western Countries (Scholl, 2014). Inter-group unity and engagement with members outside the community stem from the moral outrage that develops within people which causes them to demand change. This outrage is caused because of the violation of the core values of justice and fairness by institutions. Research has found a

correlation between ‘emancipatory values’ (greater individual freedom and equality of opportunity) of communities and their participation in contentious politics (Welzel, 2013). Thus, contentious politics is likely to succeed more in societies that favor liberalism as compared to those that are socio-culturally oriented towards authoritarianism. The public has historically relied on conventional sources of information dissemination, such as broadcast news. These agencies are susceptible to being influenced by the interests of those in positions of power and tend to be supportive of authoritative regimes in reporting. The development of alternative forms of media and methods of information dissemination, that usually happens across national boundaries has fueled contentious politics in the last decade. This has also led to increased regulation and oversight over social media and other alternative communication methods, and governments often rely on technologically driven, high-level surveillance programs to curb protests and dissent under the garb of national security.

The 2019-20 anti-CAA-NRC Protests of India were marked by the participation of members of all religious communities, even though most criticism of the legislation stems from it being discriminatory towards Muslims. Inter-religion solidarity in a country as diverse as India stemmed from the fear of aggressive nationalism and the moral outrage against the stripping of citizenship of individuals based on their religious identity. These protests also gave birth to novel alliances between different minority groups (Muslims and Dalits) that found themselves in opposition to the right-wing Hindu Nationalist government and its use of violence and intimidation against peaceful protestors. Support for these protests grew across community lines after the use of violence by the police against peaceful protestors (Jha, 2020). When the state attempts to curb the political actions of those already in a position of disadvantage, it leads to the development of sympathy for the cause and the protestors. Even governments of liberal democracies often resort to violence in an attempt to curb protests. In the Yellow Vest Protests of France against economic injustice and rising fuel prices, the response of the police led to more than 1800 civilian injuries, including limb amputations (De Clercq & Paone, 2019). Police brutality often gives way to violence at the hands of protestors, as in the case of both India and France despite their social, cultural, and economic differences. Muslim communities in North-East Delhi retaliated against prolonged police brutality by engaging in violence themselves, which many have described as an act of self-defense (Slater, 2020). Violence by protestors in France injured more than 1000 police personnel (De Clercq & Paone, 2019).

DISCUSSION

The use of contentious politics has led to the fall of authoritarian regimes across the world over the past three decades. Social movements in the west have led to significant changes not just in government policy but also in public opinion and culture. The legacy of these movements

continues to inspire protests and social change across national boundaries (Giugni, 2004). The Stonewall Riots were a pivotal point in the LGBTQ movement. The adoption of contentious means such as pride parades have become central to the movement since, and have led to several progressive social reforms, even in the developing world (Goicichea, 2017). Most importantly, these movements create space for marginalized individuals that allows them to exist as equals in society.

Contentious means include both violent and non-violent forms of dissent. Social movements are usually multi-faceted, and even if they have a unified stance on the use of violence, fringe groups within movements resort to the use of violence. A study of violent and nonviolent movements by Chenoweth and Stephan in 2011 concluded that nonviolent movements are more likely to succeed than violent ones, primarily because they are more accessible to the masses which allows them to gain popular support (Chenoweth & Stephan, 2011). Violent contentious politics includes the use of means including acts of political terrorism, small scale attacks, and civil war. Even though contentious politics is synonymous with civil disruption, the use of violence triggers long term conflicts, involves international actors with vested interests, and leads to low economic productivity. Moreover, violent movements are difficult to control and the use of violence compromises the integrity of the entire movement and undermines the collective cause. The threat of violent insurgencies is used by governments to curb protests, dissent, and any politics that seem contentious, even if it is non-violent. The tools used by the ruling government to curb civil disobedience and protests are wide-ranging and involve the use of other parts of state machinery which are supposed to act as checks and balances on the government instead of being complacent. The integrity of public institutions such as courts of law is compromised in an attempt to maintain the 'status quo' and resist institutional reform.

There has been a rise in authoritarianism in liberal democracies over the past decade. The democratic processes of countries including Brazil, India, the United States, and the Philippines have been swept by a wave of populism, which has led to the election of governments that have engaged in or promoted violence against racial and ethnic minorities within these countries. The popular support to these governments often comes from those who have been disillusioned by mainstream politics, and the culture of political correctness, which they proudly defy (Allin, 2016). However, these governments have been met with some of the most historic protests including the Women's March against the election of President Trump, and the Citizenship Protests in India, which has led to the creation of hostile socio-political environments. When these governments have felt threatened by social protest, they have resorted to adopting more authoritarian practices to safeguard the existing order, which ultimately leads to the amplification of grievances and polarization (O'Brien, 2016). Polarization of the political environment adversely affects productive engagement between opposing sides, degrades the standard of

political discourse, and leads to extreme forms of contentious protests and authoritative state responses.

Governments have responded to contentious politics by reducing transparency in governmental procedures, curbing free speech, and the ability to collectivize and suppress political dissent and opposition through the use of instruments of state machinery including the police, the bureaucracy, and courts of law. Authoritarian actions of the government are often justified as necessary for national security. The incumbent Bharatiya Janata Party in India even arrested three former ministers and democratically elected members of Parliament who opposed the scrapping of Article 377, a part of the Indian Constitution that grants special powers to the territory of Jammu and Kashmir - the control of which is disputed by China and Pakistan. The BJP government has often resorted to the use of a draconian colonial law- Section 144, which prevents people from gathering in crowds and engaging in protest, even if they remain peaceful. Since its reelection in 2019, the BJP has used Section 144 to curb protests indiscriminately, across the country (Rao, 2019). The Supreme Court of India, which is supposed to act as the final check on the moves of the central government has seldom questioned its decisions, even though they are tantamount to the abuse of human rights (Ayyub, 2020). The usage of the internet and social media has been instrumental in the success of social movements across the world, which explains the Central Government's decision to remove internet connectivity for over two months in Jammu and Kashmir- the longest internet shutdown in the history of the world. The otherization and antagonization of Muslims have been systematically carried out by the BJP and associate bodies which have threatened the social fabric of a religiously diverse and secular India (Ayyub, 2020). Hate crimes against Muslims and Dalits have increased steeply since the Hindu nationalist entity came to power. The citizenship legislation threatens to make a significant part of the Indian Muslim population (around 200 million, the second-largest Muslim population in the world) stateless. Attempts by Muslims to collectivize have been met with not only the abuse of human rights through state institutions but also with further antagonization (Rao, 2019). Not only is police brutality used to suppress protests by Muslims, but the government has also persecuted peaceful protestors for arson and disruption of peace through the use of surveillance technology such as facial recognition (Barik, 2020).

CONCLUSION

Contentious politics has led to violence and prolonged civil disruption. Governments across the world feel threatened by the possibility of armed insurgency and political terrorism, which undermines the legitimacy and integrity of not just the government, but the state and society as a whole and characterize these events and actors as threats to national security. Even though surveillance and persecution of terrorists through set legal standards have been a norm in liberal

democracies, the extension of this persecution and surveillance to peaceful protestors who feel disillusioned from the state and its institutions is unfair. Governments must seek to balance national security interests and human rights and values of liberty and equality. When states productively engage with contentious movements it makes protestors less likely to adopt more extreme and violent means. Productive engagement and compromise not only lead to peace and social justice but also leads to the inclusion of contentious movements and actors in the mainstream political discourse. To engage in this dialogue, governments must be responsive and open to contentious ideas, even if they are antithetical to their ideology. The systems of checks and balances within democracies should be strengthened in order to prevent governments from using the state machinery to quash dissent and antagonize communities that comprise their population.

Research suggests that more often than not, there are internal actors within authoritarian regimes who ultimately do engage with contentious movements to bring about a change, as in the case of the Arab Spring Movements. Growing rates of internet penetration and communication technologies lead to exposure of people to ideas of freedom and equality, which they aspire to achieve and what drives them to protest and dissent, and if states do not engage with these movements constructively, they turn contentious. Contentious politics has overhauled the political systems in many countries over the last few decades and has been the cause of social and policy change across the world. Instead of perceiving contentious movements as a threat that needs to be eliminated, governments should seek to productively engage with such movements in order to prevent further antagonization and prolonged civil disruption.

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